



**TOWN OF NEW DURHAM**

<b>BOARD OF ETHICS</b>
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**RULES OF PROCEDURE**

**I. AUTHORITY**

These “Rules of Procedure” are adopted under the authority of the New Durham Board of Ethics (BOE).

**II. OFFICERS**

- A. A Chairman shall be elected annually by a majority vote of the board in the Month of April. The Chairman shall preside over all meetings and hearings, appoint such subcommittees as directed by the board and affix his/her signature in the name of the BOE.
- B. A Vice-Chairman shall be elected annually by a majority vote of the BOE in the month of April. The Vice-Chairman shall preside in the absence of the Chairman, and have full powers of the Chairman on matters that come before the BOE during the absence of the Chairman.
- C. A Clerk, a non-member of the New Durham BOE, shall maintain a record of all meetings, transactions, and decisions of the BOE and perform such other duties as the board may direct by resolution.
- D. The Chairman and Vice-Chairman shall serve for one (1) year and be eligible for re-election.

**III. MEMBERS**

- A. Members of the BOE must reside in the community.
- B. Members are expected to attend all board meetings to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Chairman as soon as possible.

#### **IV. BOARD OF ETHICS MEETINGS AND GUIDELINES**

- A. Meetings shall be held as needed at the New Durham Town Hall at 6:30 PM on the second (2<sup>nd</sup>) Tuesday of each month. Other meetings may be called by the Chairman, providing public notice and notice to each member are given at least twenty-four (24) hours, excluding Sundays and legal holidays, prior to such meetings. However, if the purpose of the meeting is for a public hearing, then the usual times for posting shall take precedence. (See also Section VI "Public Notice.")
- B. A quorum for all meetings of the BOE shall be three (3) members.
- C. Any potential for conflict of interest on the part of a board member shall be brought to the attention of the BOE prior to any involvement of the board member with the particular complaint or request.
- D. If a BOE member believes that he or she has a conflict of interest with a pending complaint or request before the BOE, the board member shall notify the Chairman as soon as possible.
- E. When there is uncertainty as to whether or not a member should be disqualified to act on a particular complaint or request, the member or another member of the board may ask the BOE to vote on the question of disqualification. This must take place before the public hearing begins, and the vote shall be advisory and non-binding.
- F. If a member of the public questions whether or not a sitting member of the BOE has a conflict of interest with a complaint or request, he/she shall identify the BOE member and specify the reason(s) why. A vote by the BOE shall make the final determination.
- G. When disqualified from BOE participation because of a conflict of interest, the board member:
  - (i) Shall not sit at the table with the remaining members of the BOE while the complaint or request is being heard and/or discussed.
  - (ii) Shall not participate in the board's consideration of the complaint or request, any discussion and/or meeting relative to the complaint or request with the BOE's attorney, and/or any BOE vote on the matter.
  - (iii) Is permitted to speak to the complaint or request as a member of the public.

## V. COMPLAINTS OR REQUESTS

All complaints or requests shall be conducted under the "Right to Know" law (RSA 91-A) except when directed towards a public servant, or town employee who shall be protected by revised state statute RSA 91-A: 3 II (c). In that case the complaint or request shall be administered in a non-public session per State of NH law unless the individual to whom the complaint or request is directed states the wish to have the matter discussed in public session.

### A. REQUESTS

- (i) A request is an informal, generic inquiry. It seeks clarification from the BOE on existing or potential situations that might be construed as possible conflicts of interest or violations of the Ethics Code. It does not mention any individual, but rather asks for an explanation from the BOE regarding specific kinds of conduct.
- (ii) All requests must be submitted in writing to the BOE.
- (iii) Upon receipt of a request, the BOE shall review the request in a public meeting and submit its findings in writing to the requestor as well as publish them in the minutes of the meeting.
- (iv) If the BOE determines that the request warrants investigation, the requestor then may bring the matter before the BOE as a written complaint.

### B. COMPLAINTS

- (i) A complaint is a formal accusation. It pertains to a specific action that has occurred which the complainant believes to be in violation of the Town of New Durham Code of Ethics.
- (ii) All complaints must be made in writing to the BOE in a sealed envelope marked "**CONFIDENTIAL ~ For the Attention of the Board of Ethics**" and specify the provision of the code that the complainant believes may have been violated. A complaint also must be signed by a resident of New Durham. (See Appendix Certification Form located at the back of the Rules of Procedure.)
- (iii) When signing the complaint, the complainant shall certify that he/she has read the Code of Ethics (a form is available for this certification and attached hereto as an appendix), believes the matter stated within is a fair subject of complaint, and has

exhausted all other avenues of relief available within town government.

- (iv) Any public servant against whom a written complaint is filed shall be given a copy of the complaint and afforded the opportunity to be heard and to present evidence to the BOE in a formal hearing for determination.
- (v) The complainant is required to attend the hearing and, at the discretion of the BOE, may be invited to explain the substance of the complaint. If the complainant is not present, the BOE has the right to dismiss the case.
- (vi) The BOE may require, with sufficient written notice, any official, board member or employee of town government to appear before it to provide testimony regarding pending complaints. For this purpose, the board may administer oaths and require the production of evidence such as documents.

## **VI. PUBLIC NOTICE**

Public notice of each BOE meeting shall be posted at the New Durham Town Hall and Town Library not less than twenty-four (24) hours prior for both regular business meetings and meetings that specifically may be called as the result of a written complaint or request.

Personal notice shall be made by certified mail to both the complainant and respondent not less than five (5) days before the date of the meeting.

## **VII. CONDUCT OF MEETING**

The agenda shall be available to the public at the meeting. In the event that the subject matter of the agenda involves a non-public meeting, the agenda shall state the statute and be posted accordingly so that the public knows of the non-public nature of the agenda. An attendee sign-in sheet also shall be available at the posted meeting.

The BOE shall have sole discretion for setting rules regarding the conduct of meetings.

### **A. Organization and Proceedings**

- (i) "Call to order" and introduction of the BOE members sitting.
- (ii) If a meeting is to be conducted in a non-public session, the Chairman shall take a vote in the following manner: ~

- ❑ **Motion:** \_\_\_\_\_, **to enter into non-public session under the terms and conditions of RSA 91-A : 3 II (c), second \_\_\_\_\_ .**
- ❑ **Roll Call :** **Names of those board members sitting shall be read, and each member will indicate his or her “yes” or “no” vote accordingly.**

(Note: A majority of “yes” votes is required to enter into non-public session. If the majority vote is “yes,” members of the public will be asked to leave because of the non-public nature of the aforesaid vote.)

- (iii) The Chairman shall inform those present that a majority vote of the BOE is required to carry any decision to the Board of Selectmen.
- (iv) The Chairman shall announce the rules of conduct for the meeting. Each person wishing to speak shall:
  - ❑ Be recognized by the Chair before speaking.
  - ❑ State his/her name (spelling it if requested) and relationship to the case.
  - ❑ Speak through the Chairman to ask questions of another party.
- (v) The Chairman shall conduct the meeting according to the following procedures.
  - ❑ Reading of the complaint or request.
  - ❑ Determination of any conflict of interest on the part of any BOE member.
  - ❑ Invitation to the complainant to speak subject to BOE discretion; questions by the BOE members.
  - ❑ Invitation to the respondent to speak to the subject matter; questions by BOE members.
  - ❑ If public session, opportunity for interested parties to speak; questions by BOE members.

- ❑ Consultation of Chairman with BOE members regarding further questions and, if none, closure of testimony part of the proceedings.
- ❑ Presentation by the Chairman, in concert with BOE members, of the complaint summary setting forth the facts and claims made from each side.
- ❑ Deliberation of the case by BOE members. Board members may ask any party of interest additional clarifying questions of fact or issue if needed, but this questioning shall not constitute re-opening of testimony.

## **VIII. RECOMMENDATION AND VOTE**

Based on all evidence provided by the complainant, respondent, and other pertinent parties, BOE members shall vote and render the BOE's findings.

The BOE, per the Code of Ethics, shall make a recommendation in writing to the Board of Selectmen within 30 days of the close of the public or non-public meeting.

## **IX. ACTION BY BOARD OF SELECTMEN**

When the BOE, after following the provisions of the Code of Ethics ordinance, makes a finding that a public servant has engaged in improper activities or has a conflict of interest, the Board of Selectmen shall take such action as deemed appropriate, which may include, but not limited to the following, per the Ordinance:

- (i) Vote to request the resignation of the offending member.
- (ii) Vote to seek the removal of the offending member in Superior Court.
- (iii) Vote to publicly censure the offending member.
- (iv) Vote to place the matter on file.
- (v) Vote to impose any other appropriate sanctions.

## **X. RECORDS**

The records of the BOE shall be kept by the Town Clerk and made available for public inspection at the New Durham Town Hall in accordance with RSA 673:17 and RSA 91-A, unless such records are sealed by the BOE in a public session and so noted in the minutes.

## **XI. AMENDMENTS**

These "Rules of Procedure" may be amended by a majority vote of the BOE members, provided that such amendment is read at the meeting immediately preceding the meeting at which the vote is to be taken for proposed amendment.

### **Approved:**

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Debra L. Jelley, Chairman

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Jan R. Bell

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Marcia S. Clark

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Linscott Fadden Jr. ("Skip")

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Barbara J. Hunter, Vice-Chairman

Date: \_\_\_\_\_

# APPENDIX CERTIFICATION FORM

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Please read the following statements and sign below.

- I have received a copy of the “Ethics Ordinance” and understand that it is my obligation to read the ordinance.
- I have read the Ethics Ordinance and believe that the attached matter is a fair subject for complaint. (Attach complaint to certification form.)
- I have sought other avenues of relief within New Durham town governance:~

Describe briefly: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I understand that my signature below indicates that I have read and understand the above statements.

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

